

CHAPTER NO. 111

SENATE BILL NO. 1574

By Haun, Burks

Substituted for: House Bill No. 1312

By Givens, Bowers, Ferguson, Roach, Walker

AN ACT To amend Tennessee Code Annotated, Title 47, Chapter 18, relative to minimum package sizes on cigarettes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding Sections 2 through 7 as a new appropriately designated part.

SECTION 2. This part shall be known and may be cited as the "Tennessee Minimum Cigarette Pack Size Act of 1999".

SECTION 3. As used in this part, unless the context otherwise requires:

(a) "Cigarette retailer" means each and every cigarette vending machine, place, store, booth, concession, truck, vehicle or person that in any way sells or makes available cigarettes or cigarette products directly or indirectly to the ultimate consumer.

(b) "Tobacco product manufacturer" means an entity that after the date of enactment of this act directly (and not exclusively through any affiliate):

(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer as that term is defined in the master settlement agreement) that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in subdivision (b)(1) or (2). The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within subdivision (b)(1), (2) or (3).

SECTION 4. No tobacco product manufacturer or cigarette retailer may directly or indirectly, manufacture, sell or distribute in Tennessee any pack or other container of cigarettes containing fewer than twenty (20) cigarettes or, in the case of roll-your-own

tobacco, any package of roll-your-own tobacco, containing less than 0.60 ounces of tobacco.

SECTION 5. The provisions of this part shall be liberally construed to promote the following purpose:

The purpose of this act is to prevent tobacco manufacturers or retailers from manufacturing, selling or distributing cigarettes in packs or containers containing fewer than twenty (20) cigarettes. This measure is designed to deter minors from smoking cigarettes.

SECTION 6. (a) Any violation of this part shall constitute a violation of the Tennessee Consumer Protection Act of 1977, as amended, which is codified in Tennessee Code Annotated, §47-18-101, et seq. For the purpose of application of the Tennessee Consumer Protection Act, any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct, trade or commerce and subject to all sanctions, penalties and remedies provided in that act, including attorneys' fees and costs.

(b) The Attorney General and Reporter may bring any appropriate action or proceeding in any court of competent jurisdiction pursuant to the provisions of this part against any cigarette manufacturer or cigarette retailer to seek redress, including injunctive relief, for violations of this part.

SECTION 7. No costs shall be taxed against the Attorney General and Reporter or the state in actions commenced under the provisions of this part.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 26, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of May 1999


DON SUNDQUIST, GOVERNOR